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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA**

**FOURTH APPELLATE DISTRICT**

**DIVISION TWO**

In re A.D., a Person Coming Under the  
Juvenile Court Law.

RIVERSIDE COUNTY DEPARTMENT  
OF PUBLIC SOCIAL SERVICES,

Plaintiff and Respondent,

v.

M.S.,

Defendant and Appellant.

E071204 / E071628

(Super.Ct.No. SWJ1200919)

OPINION

APPEAL from the Superior Court of Riverside County. Judith C. Clark, Judge.

Affirmed.

Jacob I. Olson, under appointment by the Court of Appeal, for Defendant and  
Appellant.

Gregory P. Priamos, County Counsel, James E. Brown, Guy B. Pittman and Julie  
Koons Jarvi, Deputy County Counsel, for Plaintiff and Respondent.

In this dependency matter regarding A.D., the juvenile court terminated parental rights and selected adoption as the permanent plan pursuant to Welfare and Institutions Code section 366.26.<sup>1</sup> By way of two separate appeals, which this court has consolidated for oral argument and decision, defendant and appellant M.S. (father) contends the juvenile court abused its discretion in denying his section 388 petition requesting reinstatement of visitation and a bonding study. He further challenges the court's finding that the parent-child relationship was not so beneficial that termination of parental rights would be detrimental to A.D. (§ 366.26, subd. (c)(1)(B)(i).) As we explain, we hold that the juvenile court properly denied father's section 388 petition and found that the beneficial parent-child relationship exception did not apply. We therefore affirm the court's orders.

## I. PROCEDURAL BACKGROUND AND FACTS

### A. *Family History.*

Mother is developmentally delayed and has a history of abusive relationships and child protective referrals. In 2012, while living with father in Las Vegas, Nevada, she became pregnant. Father physically abused mother, resulting in her hospitalization and his arrest and incarceration in jail for five days. Nonetheless, she returned to live with him until he "threatened to cut the newborn out of her stomach" and electrocute her "until she gave him the answers that he wanted." Fearing that he would kill her, mother moved to California, where she had family support.

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<sup>1</sup> All further statutory references are to the Welfare and Institutions Code unless otherwise indicated.

*B. Detention Hearing.*

Mother gave birth to A.D. in December 2012. On December 15, 2012, the Riverside County Department of Public Social Services (the department) received a referral from the hospital with allegations of general neglect. Mother admitted to drinking alcohol throughout her pregnancy and being homeless with no resources for A.D. A.D. had a hemangioma, which could turn fatal if untreated. Mother identified A.D.'s father as M. and stated that he lived in a motel in Las Vegas. The maternal grandmother (MGM) showed up at the hospital with mother's older child, T.A., whom MGM had taken from mother to remove him from mother's abusive relationship with father. MGM and mother "admitted to being [Roma]."<sup>2</sup>

On December 18, 2012, the department filed a juvenile dependency petition under section 300 subdivisions (b) (failure to protect) and (g) (no provision for support).<sup>3</sup> It was alleged that mother (1) lived a "transient lifestyle," (2) suffered from "cognitive delays that severely limit her ability to provide" care for A.D., (3) had a prior case history with child protective services, and (4) had a history of entering into and remaining in abusive relationships. As to father, the department alleged (1) he was not a member of A.D.'s household, (2) he failed to provide for A.D., and (3) his whereabouts were

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<sup>2</sup> The parties use the term "Gypsy" to describe themselves. That term is, today, generally not preferred. We have decided to use "Roma" instead. We mean no disrespect.

<sup>3</sup> The petition was filed as to both of mother's children; however, because this appeal only involves A.D., T.A. will only be referred to when necessary. We note that T.A. has a different father and has been returned to his care. We further note that mother has a third child, J.A. J.A. is not a party to this appeal and was not named in the petition.

unknown. On December 19, 2012, the juvenile court found a prima facie showing that A.D. came within section 300. A.D. was detained, and the court ordered reunification services and supervised visitation for both parents. A first amended petition was filed January 10, 2013, deleting the allegation that father's whereabouts were unknown.

*C. Jurisdiction and Disposition Hearing.*

According to the jurisdiction/disposition report filed January 10, 2013, mother had resumed living with father in Las Vegas. The social worker contacted father, who denied any physical abuse of mother except for one incident. He admitted they are Roma; however, he claimed that he was "not going to raise [his] children [Roma] . . . [because t]he Stone Age is gone." Mother denied that father was abusive, claiming that she had made up the story because the MGM did not like him. DNA testing confirmed father's paternity of A.D. On February 19, 2013, the juvenile court ordered supervised visitation for father.

In the addendum report filed March 11, 2013, the social worker reported that father had been participating in services, and that he was "very hands on" with the baby by feeding, changing, and singing to her. Father complained that the baby was "too bonded with the foster mother." He was critical of the foster mother and very aggressive with her. The social worker expressed concern that father's behavior could jeopardize A.D.'s placement. Mother was not diligent in her visitation with A.D. or her attendance at the dependency hearings. She was unable to answer the social worker's questions without father's intervention; however, when mother was able to independently talk to the social worker, she inferred that father was controlling her actions.

On March 14, 2013, a second amended petition was filed. At the contested jurisdiction hearing, the juvenile court sustained the allegations in the amended petition, finding that A.D. came within section 300, subdivision (b). The court removed her from the parents' care and ordered reunification services and supervised visitation for both parents.

*D. Six-month Review Report and Hearing.*

In the review report filed September 3, 2013, the department reported mother's whereabouts as unknown. In early August 2013, after father's Interstate Compact on Placement of Children (ICPC) request was denied in Nevada, he moved to a one-bedroom apartment in Riverside County "on a month to month lease." Although he claimed to be self-employed, making \$2,000 to \$10,000 a month by buying and selling used vehicles, the social worker was unable to verify his claim. Father had participated in and completed the recommended services, except for individual therapy. The social worker opined that father would benefit from individual therapy in working on his anger and hostility issues, which became apparent when the department did not place A.D. with him after he had moved to Riverside County. The foster mother reported that father's visits with A.D. were getting better. He was affectionate with A.D. and appeared to care for her and be sincerely happy that she was in his life. The department expressed a concern that father presented a flight risk. He resisted the request that he provide proof of income, he did not file taxes or possess any bank account statements to verify his income, and he had no records to confirm his business. Thus, the department had no way to verify father's ability to provide ongoing care for A.D. His only identification was an

international driver's license, which was not valid because his Nevada driver's license had expired.

In the addendum report filed September 13, 2013, the department recommended the juvenile court authorize liberalized visitation and order father to participate in Live Scan fingerprint testing prior to any change in visitation or placement of A.D. in his care. It was noted that on September 9, 2013, an anonymous caller informed the department that father was using a fraudulent international driver's license, which may not state his real name. The caller stated that father was from New York, related to the mob, used prostitutes to get their children, and was known in the Roma community for selling children. The caller believed that the other child, T.A., had already been sold, and advised the department to get A.D.'s fingerprints because father would switch children so he could sell them. The social worker found the caller to be "very credible" because "the caller was aware of extremely confidential information about the Child Welfare case and specifics about the case." The department expressed a concern with father's inability to confirm his identity, criminal record, source of income, and/or residence.

Subsequently, the results of father's Live Scan fingerprint test indicated that he had an alias as well as a criminal record. On October 15, 2013, the juvenile court terminated reunification services for mother, but continued them for father.

*E. Twelve-month Review Report and Hearing.*

In the 12-month review report filed January 31, 2014, the department recommended termination of reunification services for father, and that a section 366.26 hearing be scheduled within 120 days. Since the last hearing, father had exhibited

“demanding and bullying” behavior, threatened to go to the news media, and was at risk of losing his housing. Father admitted that he had not paid his rent in over two months. In response to father’s inquiry as to when he would gain custody of A.D. in order to take her to Nevada, the social worker explained there was a one-year waiting period following the denial of his initial assessment under the ICPC. Displeased with the social worker’s explanation, father accused the department of keeping A.D. away from him.

The foster mother informed the social worker that father’s attitude had changed since obtaining a new attorney: (1) he had become “increasingly aggressive, rude, and uncooperative,” and (2) he appeared distressed and agitated, using a tone that was generally mocking, accusatory, and sarcastic. One example occurred during a supervised visit. The foster mother’s five-year-old foster son was “unconsciously” kicking A.D.’s chair in a “repetitive motion.” Father became angry and sat down next to the boy. Father told the child that he did not like him “because he did not like black people,” and he “did not like black people because they do not listen.” The foster mother intervened and told father the “statements were inappropriate and that he could not speak that way to the little boy.”

The foster mother also reported that A.D. was very clingy after visiting father. A.D. would initially go to father without any problem, but she would cry “hysterically” when she realized she was going into the car to leave with him. The foster mother was concerned that father was trying to locate where she lived because he would take pictures of her car and license plate. The social worker opined that father’s change in attitude was consistent with someone who had mental health issues or had not learned to deal with

issues of anger management and conflict resolution; thus, he had not benefited from the services he had received. On February 14, 2014, the juvenile court set a contested 12-month review hearing.

According to the addendum report filed March 12, 2014, on March 10, 2014, father failed to return A.D. to her foster home following a weekend visit. The department obtained a protective custody warrant on behalf of A.D, and a bench warrant was issued for father. On March 17, 2014, the juvenile court terminated reunification services for father.

*F. Postpermanency Status Review Reports.*

In the postpermanency status review report filed September 5, 2014, the social worker reported that she had spoken with mother, who denied knowing father's whereabouts. On September 16, 2014, the juvenile court ordered a planned permanent living arrangement with the goal of adoption. The case was referred to the Riverside County District Attorney's Child Recovery Unit and the National Center for Missing and Exploited Children. The court retained jurisdiction over A.D., and the department continued to review her status, during the three-plus years she was absent due to her abduction by father. (§ 366.3, subd. (a).)

According to the postpermanency status review report filed February 28, 2018, A.D. was located in Seattle, Washington, on November 30, 2017, and returned to foster care in California. Father was arrested for child stealing, extradited to California, arraigned and released on \$100,000 bail. In a meeting with the social worker, he stated that he is Roma with Italian descent, lives with his girlfriend in Riverside, and makes



\$6,000 a month buying and selling vehicles. At another meeting, he was observed as being emotional and delusional. He accused the prior social worker of directing law enforcement agencies to remove A.D. from his care because he is Roma. He accused mother and the department of selling A.D. to the adoptive parents. He admitted to offering Washington law enforcement \$200,000 if they would release him, and offering the department \$50,000 to return A.D. to him. Father's request for visitation was denied "due to the evasive nature of the parents and concerns regarding the safety of [A.D.]" On January 9, 2018, the department assessed A.D. as adoptable, and prospective adoptive parents were identified.

On March 12, 2018, father filed a section 388 petition requesting supervised visitation and the reinstatement of reunification services with "a permanent plan of reunification." He claimed A.D. had a close relationship with him, and he could provide her with a loving, nurturing home, appropriate care, and protection. He asserted she would learn about her "unique heritage and how to appropriately deal with and interact with her extended community." At the review hearing on March 13, 2018, the juvenile court denied the request for visitation, set a contested section 366.26 hearing, and ordered the department to contact A.D.'s therapist regarding visitation. On March 19, 2018, A.D. was placed in a prospective adoptive home and referred to a new therapist.

On April 11, 2018, the juvenile court denied father's motion for an evidentiary hearing on his section 388 petition.

*G. Section 388 Petition (Case No. E071204).*

On June 20, 2018, father filed another section 388 petition. He requested the juvenile court reinstate reunification services, release A.D. to his care or order unmonitored or monitored visitation, and reset the permanency hearing pursuant to Welfare and Institutions Code section 366.21, subdivision (f). He also requested the court order an Evidence Code section 730 bonding study to determine the parent/child bond and what services, if any, would allow reunification. Alternatively, if the court terminated parental rights, father requested a final two-hour visit with A.D. and that relatives be assessed for placement.

According to the section 366.26 hearing and postpermanency status review report filed June 21, 2018, the department reported that A.D. had been diagnosed with depressive disorder unspecified, and she was attending therapy sessions to work on “thought stopping and coping skills.” She was described as “an affectionate little girl who likes to cuddle and needs frequent reassurance from caregivers.” She would “constantly” ask them if “she will be staying ‘forever’ and not going to a different home.” A.D.’s routine of waking up several times during the night to watch television had stopped. She was learning how to make friends. Although she had learned the “songs related to counting and her ABCs,” she was unable to identify or differentiate between numbers and letters. The prospective adoptive parents were described as being “extremely attentive” to A.D.’s needs and knowing “what to do for her when she is

seeking attention.” She was bonded and attached to the prospective adoptive parents, she was thriving in their home, and she called them “mommy” and “daddy.”

On July 12, 2018, the juvenile court denied the section 388 petition with the exception of setting an evidentiary hearing regarding relative assessments. (§ 361.3.) Regarding the denial of visitation, the court found that it was not in A.D.’s best interest to grant visitation because father posed a significant flight risk and failed to acknowledge his wrongdoing. The court added, “it is detrimental to this child to have visitation with father” because he is extremely manipulative, and the visitations “would afford father an opportunity to potentially interfere with a witness” regarding his pending criminal case. Also, the court stated that it could not rely upon father to “comply with the rules and regulations with regards to the nature of his visitation and the content and subject of the discussions that he would have with this child.” Regarding the bonding study, the court questioned whether it could be “viable and informative” when it would have to be conducted in a place where the psychologist could observe the interaction between father and A.D. without the presence of the social worker. However, given father’s past actions and current attitude, the court could not allow him to have any contact with A.D. in any place other than a visitation room at the department under the supervision of the social worker and a security guard. The court expressed concern that the lack of ongoing visitation between the two could “skew” interaction. Because of the restrictive circumstances under which the study would be conducted, the court concluded that “the validity and impact and the weight and credibility that this court would give to any bonding study done would be greatly minimal.” The court further stated: “[T]o subject

[A.D.] to a bonding study when she is not experiencing any visitation so that the only contact is to have her have contact with father for this limited period of time for this one session when the court does not intend to allow ongoing visitation I think would be emotionally detrimental and harmful to the child.”

On August 21, 2018, the parents were ordered to provide the department with the names and relevant information of any maternal or paternal relatives of A.D. no later than August 31, 2018. That same day, father appealed the denial of his section 388 petition.

*H. Contested Section 366.26 Hearing (Case No. E071628).*

In the addendum to the relative placement and contested section 366.26 hearing report filed October 30, 2018, the department stated, “none of the relatives provided to the Department by the father’s counsel completed” the necessary paperwork or “called to inquire about [A.D.]”

On November 5, 2018, the juvenile court consolidated the contested section 366.26 and relative assessment issues for hearing. The department offered into evidence the section 366.26 report filed June 21, 2018, and two addendum reports filed August 16, 2018 and October 30, 2018, respectively. In addition to these reports, the court also reviewed the entire file. The social worker testified that none of the relatives that father identified were interested in placement of A.D. The social worker recommended adoption as the permanent plan for A.D. The parties stipulated A.D. would testify she knows father is her father, she misses him, and she loves him.

Father testified the last time he saw A.D. was November 29, 2017, the day of his arrest. He further testified A.D. “never left [his] side” when they were together, and they

would play, do their hair and nails, and shop. He later admitted he used a babysitter or daycare for A.D. when he worked. He also testified he had taught her to read and write “a little bit, she knows her A-B-Cs, [and] she can count to 26.” He admitted that he had abducted her while the dependency was pending, took her out of state, kept her for four years until law enforcement found them, and offered to “buy her back” from the department. He also admitted that he had a pending felony case for the abduction, and that A.D. had no contact with her half siblings or any other family members during her abduction.

Regarding relative placement, the juvenile court found there was no further need for a change in placement because the department had “exercised due diligence in contacting the relatives whose names were provided . . . by [father, and that] none of those relatives followed through to complete the process of relative assessment.” Thus, the court denied father’s section 388 petition regarding relative placement. Regarding the selection of a permanent plan, the court found father held a parental role with A.D. and the two shared a bond; however, the court concluded the benefit of adoption outweighed the benefit of maintaining the parent/child relationship. Finding it was likely A.D. would be adopted, that adoption was in the child’s best interest, and that neither the beneficial parental or sibling relationship exceptions applied, the court terminated parental rights. Father appealed.

## II. DISCUSSION

*A. The Juvenile Court Did Not Abuse Its Discretion in Denying the Section 388 Petition.*

Father challenges the juvenile court’s order denying his section 388 petition requesting the reinstatement of visitation and a bonding study. We conclude the court did not abuse its discretion in denying father’s section 388 petition because father failed to carry his burden of demonstrating changed circumstances, which would outweigh A.D.’s need for permanency and stability. The evidence shows reinstatement of visitation with father would be detrimental to A.D. and, therefore, not in her best interest. Also, because there was a bond between the two, there was no need for a bonding study.

*1. Standard of review.*

Section 388 allows a parent of a dependent child to petition the juvenile court to change, modify, or set aside a previous order of the juvenile court. (§ 388; *In re Marilyn H.* (1993) 5 Cal.4th 295, 308-309.) The court may deny the petition—summarily, ex parte, and without a hearing—if the petition fails to make prima facie showings of changed circumstances or new evidence, and that the requested change will serve the best interests of the child. (*In re Alayah J.* (2017) 9 Cal.App.5th 469, 478; Cal. Rules of Court, rule 5.570(d)(1), (2).) We review the grant or denial of a section 388 petition for an abuse of discretion. (*In re Y.M.* (2012) 207 Cal.App.4th 892, 920.)

*2. Denial of reinstatement of visitation.*

“Visitation between a dependent child and his or her parents is an essential component of a reunification plan, even if actual physical custody is not the outcome of the proceedings. [Citation.] Visitation ‘shall be as frequent as possible, consistent with the well-being of the child.’ [Citation.] However, ‘[n]o visitation order shall jeopardize the safety of the child.’ [Citation.] It is ordinarily improper to deny visitation absent a

showing of detriment. [Citations.]” (*In re Mark L.* (2001) 94 Cal.App.4th 573, 580; see § 366.21, subd. (h).)

Section 362.1, subdivision (a)(1)(A), authorizes the denial of visitation only if it threatens the “well-being of the child.” (See *In re C.C.* (2009) 172 Cal.App.4th 1481, 1491 [§ 362.1 mandates visitation absent evidence of a threat to the child’s physical safety]; *In re T.M.* (2016) 4 Cal.App.5th 1214, 1219 [“section 362.1, subdivision (a) only requires visitation as frequently as the well-being of the child allows[, and] ‘well-being’ includes the minor’s emotional and physical health”].) “Accordingly, if visitation is not consistent with the well-being of the child, the juvenile court has the discretion to deny such contact.” (*In re T.M.*, at p. 1219.) Even after reunification services have been terminated, visitation must continue unless the court finds it would be detrimental to the child. (§ 366.21, subd. (h); *In re Hunter S.* (2006) 142 Cal.App.4th 1497, 1504.) However, “the parents’ interest in the care, custody and companionship of the child are no longer paramount. Rather, at this point ‘the focus shifts to the needs of the child for permanency and stability.’” (*In re Stephanie M.* (1994) 7 Cal.4th 295, 317.)

Father argues we should review the juvenile court’s order denying visitation for abuse of discretion. However, there is a split in authority as to whether we apply an abuse of discretion or substantial evidence standard of review. (See *In re T.M.*, *supra*, 4 Cal.App.5th at p. 1219 [explaining split of authority].) Under either standard, however, we find the order was proper.

The juvenile court’s decision to deny visitation to father is adequately supported by the record. As we have set forth, *ante*, as early as October 2013, the department was

concerned about father's "unusual behavior." He was becoming "increasingly aggressive, rude, and uncooperative." He used a tone that was generally mocking, accusatory, and sarcastic. While A.D. would go to father without any problem, she would cry "hysterically" when she realized she would be leaving with him. The social worker opined that father presented as someone who had mental health issues or had not learned to deal with issues of anger management and conflict resolution; thus, he had not benefited from the services he had received. By the 12-month review hearing, the department recommended termination of reunification services. In response, father abducted A.D. and concealed their whereabouts for more than three years.

In December 2017, after father and A.D. were located, father appeared emotional and delusional. He offered money to law enforcement and the department in exchange for having A.D. returned to him. A.D. was diagnosed with depressive disorder unspecified, and she was attending therapy sessions to work on "coping skills." She needed her caregivers to frequently reassure her that she would be staying with them forever and not going to a different home. In the care of her prospective adoptive parents, A.D. stopped waking up several times during the night to watch television. They were "extremely attentive" to her needs. She was bonded and attached to them, she was thriving in their home, and she called them "mommy" and "daddy."

In denying father's request to reinstate visitation, the juvenile court was entitled to find the assessment of the social worker credible and sufficient, particularly where there was no evidence before the court to refute or counter it. The cumulative evidence from the social worker's reports was sufficient to support the court's conclusion that any



contact between father and A.D. would be detrimental to her. The court found that father: (1) posed a significant flight risk; (2) was extremely manipulative; and (3) could not be trusted to “comply with the rules and regulations with regards to the nature of his visitation and the content and subject of the discussions that he would have with this child.”

### *3. Denial of a bonding study.*

Father contends that the juvenile court abused its discretion in denying his request for a bonding study. We disagree.

In attempting to establish the beneficial parent/child exception to the preference for adoption, a parent may request “a bonding study to illuminate the intricacies of the parent-child bond so that the question of detriment to the child may be fully explored.” (*In re S.R.* (2009) 173 Cal.App.4th 864, 869.) Evidence Code section 730 allows the court to appoint an expert when “expertise is, or may be, required to resolve issues in the case.” (*In re S.R.*, at p. 869.) However, the decision to appoint an expert witness is a matter of discretion. (*In re Jennifer J.* (1992) 8 Cal.App.4th 1080, 1084.) The moving party has the burden of showing a need for the appointment of a psychologist. (*Tran v. Superior Court* (2001) 92 Cal.App.4th 1149, 1153 [“defendant must make an adequate showing of need for such services”]; *In re Lorenzo C.* (1997) 54 Cal.App.4th 1330, 1339, 1341 [“There is no requirement in statutory or case law that a court must secure a bonding study as a condition precedent to a termination order.”].) We review the trial court’s decision concerning the requested appointment of a psychologist to conduct a

bonding study for an abuse of discretion. (*Corenevsky v. Superior Court* (1984) 36 Cal.3d 307, 321.)

Here, the juvenile court was aware of the bond between father and A.D.<sup>4</sup> and concluded that a psychologist's report regarding that bond would not assist the court in ruling on the best permanent plan for her. When, as here, "it is unlikely that a bonding study would have been useful to the juvenile court," the court does not err in not appointing the expert. (*In re Lorenzo C.*, *supra*, 54 Cal.App.4th at p. 1341.) We can discern no abuse of discretion in the court's order denying the bonding study.

*B. The Juvenile Court Did Not Err in Concluding the Beneficial Parent-child Relationship Exception Did Not Apply.*

Father contends that the juvenile court erred by refusing to apply the beneficial parent-child relationship exception in determining to terminate his parental rights.

The Legislature has designated adoption as the preferred permanent plan when possible. (*In re L.Y.L.* (2002) 101 Cal.App.4th 942, 947.) If the court finds a dependent child is likely to be adopted, it must terminate parental rights and select adoption as the permanent plan unless it finds one of several exceptions applies. (§ 366.26, subd. (c)(1);

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<sup>4</sup> The juvenile court acknowledged the bond between father and A.D. when considering his claim under section 366.26, subdivision (c)(1)(B)(i): "In evaluating the beneficial relationship exception, the Court looks first to whether the parent has maintained regular visitation and contact with the child. Here, Father clearly has a bond with [A.D.]. He was exercising his court-ordered visitation with [her] prior to absconding with the child, and he was her caretaker throughout the period of time that the warrants remained outstanding for him and the child. Father does hold a parental role with this child, and her stipulated testimony makes clear that [A.D.] has a bond with her father."

*In re L.Y.L.*, at p. 947.) “[I]t is only in an extraordinary case that preservation of the parent’s rights will prevail over the Legislature’s preference for adoptive placement.” (*In re Jasmine D.* (2000) 78 Cal.App.4th 1339, 1350.)

The beneficial parent-child relationship exception requires the court to find “a compelling reason for determining that termination would be detrimental to the child” because the parent has “maintained regular visitation and contact with the child and the child would benefit from continuing the relationship.” (§ 366.26, subd. (c)(1)(B)(i).) “[T]he court balances the strength and quality of the natural parent/child relationship in a tenuous placement against the security and the sense of belonging a new family would confer. If severing the natural parent/child relationship would deprive the child of a substantial, positive emotional attachment such that the child would be greatly harmed, the preference for adoption is overcome and the natural parent’s rights are not terminated.” (*In re Autumn H.* (1994) 27 Cal.App.4th 567, 575.)

Courts must examine the beneficial parent-child relationship exception on a case-by-case basis and consider the variables affecting the parent-child bond, including “[t]he age of the child, the portion of the child’s life spent in the parent’s custody, the ‘positive’ or ‘negative’ effect of interaction between parent and child, and the child’s particular needs.” (*In re Autumn H.*, *supra*, 27 Cal.App.4th at p. 576.) The parent bears the burden of showing the exception applies. (*In re S.B.* (2008) 164 Cal.App.4th 289, 297.) We review the court’s determination on whether a beneficial parent-child relationship exists for substantial evidence. (*In re Bailey J.* (2010) 189 Cal.App.4th 1308, 1314.) We review for abuse of discretion the court’s determination on whether the relationship

provides a compelling reason for finding termination of parental rights would be detrimental to the child. (*Id.* at p. 1315.) Here, the juvenile court found that a bond existed between father and A.D., and substantial evidence supports the court’s finding.<sup>5</sup> Thus, we focus on whether the court abused its discretion in concluding the parent-child relationship was not a compelling reason to forgo adoption.

Father has not demonstrated “that severing the natural parent-child relationship would deprive” A.D. “of a *substantial*, positive emotional attachment such that [she] would be *greatly* harmed.” (*In re Angel B.* (2002) 97 Cal.App.4th 454, 466.) It is true A.D. knows that father is her father, she misses him, and she loves him. However, her attachment to him was established because he abducted her and kept her away from any other family members for more than three years. Since returning to California, A.D. had been doing well in her prospective adoptive parents’ home. Although she was diagnosed with depressive disorder unspecified, she had been attending therapy sessions to work on coping skills. There was no evidence that she experienced distress when separating from father. Rather, she constantly asked her prospective adoptive parents if she would “be staying ‘forever’ and not going to a different home.” She was bonded and attached to them, she was thriving in their home, and she called them “mommy” and “daddy.” She had stopped waking up several times during the night to watch television, and she was making friends. In contrast to the volatile life-on-the-run that father had subjected her to,

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<sup>5</sup> Because we agree there was “ample evidence of the relationship between father and [A.D.],” we reject father’s claim the denial of visits and a bonding study “corrupted” his ability to meet his burden under the parent-child bond exception.

the prospective adoptive parents had provided a stable home. There simply was no evidence A.D. would be greatly harmed by the termination of her natural parent-child relationship with father. (*In re Angel B.*, at p. 466.) We therefore conclude that the juvenile court properly found the parent-child relationship exception to adoption did not apply.

### III. DISPOSITION

The orders denying the section 388 petition and terminating parental rights are affirmed.

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

McKINSTER  
J.

We concur:

RAMIREZ  
P. J.

MILLER  
J.